Introduced Version

HOUSE BILL No. 1916

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-2.1-4; IC 4-13-2-18.

Synopsis: State spending cap. Provides a control on state expenditures based on the change in gross Indiana nonfarm personal income as reported by the United States Department of Commerce, Bureau of Economic Analysis. Requires the budget agency to determine and publish each even-numbered year the Indiana nonfarm personal income growth index (the IPI growth index) in the Indiana Register. Provides for emergency expenditures. Provides for mandatory reductions in expenditures.

Effective: Upon passage.

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January 26, 1999, read first time and referred to Committee on Ways and Means.

Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1916

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-2.1-4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4. General Expenditure Controls

Sec. 1. As used in this chapter, "base year" means the state fiscal year beginning July 1, 1997.

Sec. 2. As used in this chapter, "budget period" means the biennium beginning July 1 of an odd-numbered year.

Sec. 3. As used in this chapter, "state spending cap" refers to the maximum expenditures under section 8 of this chapter.

Sec. 4. As used in this chapter, "controlled state fund" refers to a state fund that is a depository of revenue from at least one (1) of the following:

(1) Alcoholic beverage tax under IC 7.1-4.

(2) Gaming card excise tax under IC 4-32-15-1.

(3) Cigarette and tobacco products tax under IC 6-7-1 and IC 6-7-2.

(4) Controlled substance excise tax under IC 6-7-3.

(5) Gross income tax under IC 6-2.1.

(6) Adjusted gross income tax under IC 6-3-1 through IC 6-3-7.

(7) Supplemental net income tax under IC 6-3-8.

(8) Financial institutions tax under IC 6-5.5.

(9) Gasoline tax under IC 6-6-1.1.

(10) Special fuel tax under IC 6-6-2.5.

(11) Motor carrier fuel tax under IC 6-6-4.1.

(12) Motor fuel inventory tax under IC 6-6-1.1-209.

(13) Motor carrier surcharge tax under IC 6-6-4.1-4.5.

(14) Hazardous waste disposal tax under IC 6-6-6.6.

(15) Insurance tax under IC 27-1-18-2.

(16) Fire insurance tax under IC 22-12-6-5.

(17) Petroleum severance tax under IC 6-8-1.

(18) Pari-mutuel admissions tax under IC 4-31-9-5.

(19) Pari-mutuel satellite facility tax under IC 4-31-9-9.

(20) Pari-mutuel wagering tax under IC 4-31-9-3.

(21) Riverboat admissions tax under IC 4-33-12.

(22) Riverboat wagering tax under IC 4-33-13.

(23) State gross retail and use taxes under IC 6-2.5.

(24) Property taxes under IC 6-1.1.

Sec. 5. As used in this chapter, "expenditures" refers to an expenditure from a controlled state fund in a state fiscal year. The term does not include the following:

(1) A payment of a tax refund or refundable tax credit related to a state tax liability.

(2) A transfer between controlled state funds or accounts within a controlled state fund.

(3) The costs of capital construction and repair.

(4) The costs of judgments and settlements.

Sec. 6. (a) As used in this chapter, "total state revenue" means the total amount of revenue that is:

(1) received by the state for a state fiscal year from a tax, a fee, a refund, an award, a settlement, a distribution from the federal government, a transfer from the counter-cyclical revenue and economic stabilization fund under IC 4-10-18-4, or a transfer from the counter-cyclical revenue and economic stabilization fund under IC 4-10-18-8; and

(2) deposited in a controlled state fund.

(b) Except as provided in subsection (a), the term does not include the following:

(1) Money transferred from a fund that is not a controlled state fund to a controlled state fund.

(2) A distribution from the federal government that is expended without an appropriation of the general assembly.

Sec. 7. (a) The budget agency shall determine the Indiana nonfarm personal income growth index (IPI growth index) in each even-numbered year as provided in this section. The IPI growth index applies to the two (2) year state budget period that begins in each odd-numbered year. The IPI growth index is the cumulative growth in Indiana nonfarm personal income since the base year using the average annual change in gross Indiana nonfarm personal income as reported by the United States Department of Commerce, Bureau of Economic Analysis for each of the six (6) calendar years ending December 31 of the year before the IPI growth index is determined.

(b) The budget agency shall publish in the Indiana Register the IPI growth index not later than November 1 of each even-numbered year.

(c) The IPI growth index is multiplied by the base year spending to determine the maximum expenditures allowed from controlled funds for a budget period.

Sec. 8. Except as provided in section 10 of this chapter, the:

(1) general assembly shall not appropriate; and

(2) budget director may not allot;

more for expenditures in a state fiscal year than the amount of base year spending adjusted by the IPI growth index.

Sec. 9. (a) An increase in the spending cap, other than by an increase in the IPI growth index, may occur only if at least one (1) of the following occurs:

(1) A spending responsibility has shifted from another level of government to the state.

(2) A spending responsibility has shifted from a fund not limited by this chapter to a fund limited by this chapter.

(3) There has been:

(A) an expansion of:

(i) state services; and

(ii) state spending; and

(B) a tax increase that is dedicated to these state services and spending.

(b) An increase in the spending cap requires the approval of a two-thirds (2/3) majority of the house of representatives and a two-thirds (2/3) majority of the senate.

Sec. 10. The general assembly, in a regular session, may authorize an emergency appropriation by enacting a public law that contains all the statements described in section 11 of this chapter in a supplemental appropriations act. The act must be approved by a two-thirds (2/3) majority of the house of representatives and a two-thirds (2/3) majority of the senate.

Sec. 11. An act described in section 10 of this chapter must contain the following:

(1) A statement that all spending authorized in the act is beyond the limits of the state spending cap.

(2) A description of the additional amount of emergency expenditures and an explanation of the specific circumstances that created the need for a supplemental appropriation.

Sec. 12. Except as allowed in an emergency appropriation and allotment under section 10 of this chapter, all appropriations for expenditures for a state fiscal year, including continuing appropriations, are void if the total amount appropriated for expenditures exceeds the state spending cap for the state fiscal year that is allowed under section 8 of this chapter. If the appropriations for a state fiscal year are voided under this section, the general assembly in a regular or special session may reappropriate an amount that does not exceed the state spending cap allowed under section 8 of this chapter.

Sec. 13. (a) Reductions in the state spending cap are mandatory in each year when spending responsibility is:

(1) shifted from the state to another level of government; or

(2) transferred from a fund limited by this chapter to a fund not limited by this chapter.

The state spending cap must be decreased by the amount of the shift or transfer.

(b) The amount of the state spending cap reduction shall be determined by the budget agency upon the recommendation of the state budget committee by a simple majority vote.

(c) If the budget agency determines:

(1) a state spending cap reduction is required that is less than one-tenth percent (0.1%); or

(2) a need to waive the mandatory downward adjustment;

the state spending cap reduction must receive a unanimous recommendation from the state budget committee.

SECTION 2. IC 4-13-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) For the purpose of the administration of the allotment system provided by this section, each fiscal year shall be divided into four (4) quarterly allotment periods, beginning respectively on the first day of July, October, January, and April. However, in any case where the quarterly allotment period is impracticable, the state budget director may prescribe a different period suited to the circumstances but not extending beyond the end of any fiscal year.

(b) Except as otherwise expressly provided in this section, the provisions of this chapter relating to the allotment system and to the encumbering of funds shall apply to appropriations and funds of all kinds, including standing or annual appropriations and dedicated funds, from which expenditures are to be made from time to time by or under the authority of any state agency. However, the provisions relating to the allotment system shall not apply to moneys made available for the purpose of conducting a post-audit of financial transactions of any state agency. Likewise, appropriations for construction or for the acquisition of real estate for public purposes may be exempted from the allotment system by the state budget director, but in such cases he shall prescribe such regulations as will insure the proper application and encumbering of funds.

(c) No appropriation to any state agency shall become available for expenditure until:

(1) such state agency shall have submitted to the state budget agency a request for allotment, such request for allotment to consist of an estimate of the amount required for each activity and each purpose for which money is to be expended during the applicable allotment period; and

(2) such estimate contained in the request for allotment shall have been approved, increased, or decreased by the state budget director and funds allotted therefor as hereinafter provided.

The form of a request for allotment, including a request by hand, mail, facsimile transmission, or other electronic transmission, shall be prescribed by the state budget agency with the approval of the auditor of state and shall be submitted to them at least twenty-five (25) days prior to the beginning of the allotment period.

(d) Each request for allotment shall be reviewed by the state budget agency and respective amounts therein shall be allotted for expenditure if:

(1) the estimate therein is within the terms of the appropriation as to amount and purpose, having due regard for the probable future needs of the state agency for the remainder of the fiscal year or other term for which the appropriation was made; and

(2) the agency contemplates expenditure of the allotment during

the period.

Otherwise, the state budget agency shall modify the estimate so as to conform with the terms of the appropriation and the prospective needs of the state agency and shall reduce the amount to be allotted accordingly. The state budget agency shall act promptly upon all requests for allotment and shall notify every state agency of its allotments at least five (5) days before the beginning of each allotment period. The total amount allotted to any agency for the fiscal year or other term for which the appropriation was made shall not exceed the amount appropriated for such year or term.

(e) The state budget director shall also have authority at any time to modify or amend any allotment previously made by him.

(f) In case the state budget director shall discover at any time that:

(1) the probable receipts from taxes or other sources for any fund will be less than were anticipated; and

(2) as a consequence the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor;

he shall, with the approval of the governor, and after notice to the state agency or agencies concerned, reduce the amount or amounts allotted or to be allotted so as to prevent a deficit.

(g) The definitions in IC 2-2.1-4 apply throughout this subsection. Allotments for a state fiscal year that exceed the greater of the maximum allotment allowed under IC 2-2.1-4-8 or IC 2-2.1-4-9 are void. The budget agency shall allot money for an appropriation, including an appropriation that is not made in a specific amount, to provide that the total allotment for expenditures from a state controlled fund in a state fiscal year does not exceed the greater of the maximum allotment allowed under IC 2-2.1-4-8 or IC 2-2.1-4-9. If the state budget director discovers that the probable expenditures for the remainder of a state fiscal year will exceed the greater of the maximum allotment allowed under IC 2-2.1-4-8 or IC 2-2.1-4-9, the state budget director shall, with the approval of the governor and after notice to the state agency or agencies concerned, reduce the amount or amounts allotted or to be allotted to prevent an allotment of more than the greater of the maximum allotment allowed under IC 2-2.1-4-8 or IC 2-2.1-4-9.

~~(g)~~ **(h)** The state budget agency shall promptly transmit records of all allotments and modifications thereof to the auditor of state.

~~(h)~~ **(i)** The auditor of state shall maintain as a part of the central accounting system for the state, as hereinbefore provided, records showing at all times, by funds, accounts, and other pertinent classifications, the amounts appropriated, the estimated revenues, the actual revenues or receipts, the amounts allotted and available for expenditure, the total expenditures, the unliquidated obligations, actual balances on hand, and the unencumbered balances of the allotments for each state agency.

~~(i)~~ **(j)** No payment shall be made from any fund, allotment, or appropriation unless the auditor of state shall first certify that there is a sufficient unencumbered balance in such fund, allotment, or appropriation after taking into consideration all previous expenditures to meet the same. In the case of an obligation to be paid from federal funds, a notice of federal grant award shall be considered an appropriation against which obligations may be incurred, funds may be allotted, and encumbrances may be made.

~~(j)~~ **(k)** Every expenditure or obligation authorized or incurred in violation of the provisions of this chapter shall be void. Every payment made in violation of the provisions of this chapter shall be illegal, and every official authorizing or making such payment, or taking part therein, and every person receiving such payment, or any part thereof, shall be jointly and severally liable to the state for the full amount so paid or received. If any appointive officer or employee of the state shall knowingly incur any obligation or shall authorize or make any expenditure in violation of the provisions of this chapter, or take any part therein, it shall be ground for his removal by the officer appointing him, and if the appointing officer be other than the governor and shall fail to remove such officer or employee, the governor may exercise such power of removal after giving notice of the charges and opportunity for hearing thereon to the accused officer or employee and to the officer appointing him.

SECTION 3. [EFFECTIVE UPON PASSAGE] **IC 2-2.1-4, as added by this act, applies only to appropriations and allotments for state fiscal years that begin after June 30, 1999.**

SECTION 4. **An emergency is declared for this act.**